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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,447	11/20/2001	Rie Saito	35.C15963	8541
5514 7590 06/20/2007 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER SERRAO, RANODHI N	
			ART UNIT 2141	PAPER NUMBER
			MAIL DATE 06/20/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/988,447

Applicant(s)

SAITO, RIE

Examiner

Ranodhi Serrao

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 19-20 have been considered but are moot in view of the new ground(s) of rejection.
2. The applicant argued in substance the newly added limitations of independent claim 19. However, the new grounds teach these and the added features. See rejections below.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 19 and 20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It appears that claim 19 would reasonably be interpreted by one of ordinary skill as a system of "software per se", failing to fall within a statutory category of invention. Applicant's disclosure contains no explicit and deliberate definition for the term "means", and in the context of the disclosure and claims in question, one of ordinary skill would reasonably interpret the "means" as software applications. As such, the system of "means" alone is not a machine, and it is clearly not a process, manufacture nor composition of matter. Thus, the claims are not limited to statutory subject matter and are therefore nonstatutory.

Claim Rejections - 35 USC § 112

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5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 19 recites "priority order of communication abilities of a user terminal from the user terminal" in line 3. And recites "the priority order of the communication abilities of each respective helper terminal" in lines 12 and 13. However, the second mention of "the priority order" cannot refer back to the first because they are not the same "priority order." The first mention of "priority order" relates to a user terminal while the second mention relates to a helper terminal. Therefore the claim is vague and indefinite, and appropriate correction is required.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (5,862,223) and Bisdikian et al. (5,974,406).

9. As per claim 19, Bisdikian et al. teaches priority order of communication abilities of a user terminal from the user terminal (see Bisdikian et al., col. 4, lines 15-43); second receiving means for receiving, from said plurality of helper terminals, the priority order of the communication abilities of each respective helper terminal (see Bisdikian et al., col. 3, lines 11-33 and col. 4, lines 15-43); selection means for selecting one of the

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plurality of helper terminals in response to a request from the user terminal (see Bisdikian et al., col. 3, lines 34-46); determining means for searching the communication abilities of the user terminal and the selected helper terminal in the order of the priority from highest to lowest to determine the communication ability coincident between the user terminal and the selected helper terminal as a communication ability to be applied to a session (see Bisdikian et al., col. 4, lines 15-43); transferring means for transferring information through the session which uses the communication ability determined by said determining means (see Bisdikian et al., col. 4, lines 44-67). But fails to teach a help server apparatus comprising: first receiving means for receiving an inquiry and searching means for searching for a plurality of helper terminals on the basis of a key word of said inquiry; transferring means for transferring an answer of the inquiry from said helper terminal to the user terminal; and settlement means for confirming that the requested session was started normally, performing charging processing to a user, and performing charge payment processing to said help server apparatus. However, Walker et al. teaches a help server apparatus comprising: first receiving means for receiving an inquiry (see Walker et al., col. 6, line 56-col. 7, line 5); and searching means for searching for a plurality of helper terminals on the basis of a key word of said inquiry (see Walker et al., col. 20, lines 50-65); transferring means for transferring an answer of the inquiry from said helper terminal to the user terminal; and settlement means for confirming that the requested session was started normally, performing charging processing to a user, and performing charge payment processing to said help server apparatus (see Walker et al., col. 28, line 66-col. 29, line 13). It would have been

obvious to one having ordinary skill in the art at the time of the invention to modify Bisdikian et al. to a help server apparatus comprising: first receiving means for receiving an inquiry and searching means for searching for a plurality of helper terminals on the basis of a key word of said inquiry; and settlement means for confirming that the requested session was started normally, performing charging processing to a user, and performing charge payment processing to said help server apparatus in order to match an expert having particular qualifications and an end user seeking a solution to an expert request (see Walker et al., abstract).

10. As per claim 20, the above-mentioned motivation of claim 19 applies fully in order to combine Walker et al. and Bisdikian et al.

11. As per claim 20, Walker et al. and Bisdikian et al. teach the help server apparatus wherein the communication ability is at least one of a data transfer rate, an information transfer ability, and a type of a terminal apparatus (see Walker et al., col. 7, lines 6-29).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

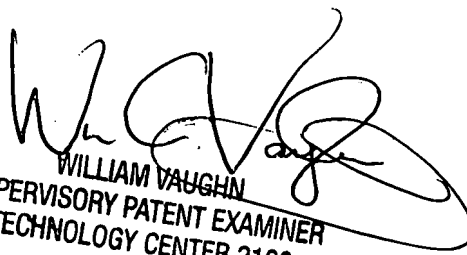
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ranodhi Serrao whose telephone number is (571)272-7967. The examiner can normally be reached on 8:00-4:30pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571)272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RNS
R.N.S.

6/13/2007


WILLIAM VAUGHN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100